

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Defendant

$$\begin{matrix} \mathbf{X} \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ : \\ \mathbf{X} \end{matrix}$$

22-cv-02156-WFK-RML

2. I make this second supplemental declaration on personal knowledge in opposition to the Motion for a Temporary Restraining Order and Preliminary Injunction filed by Vans, Inc. and VF Outdoor, LLC (together, “Vans”) against MSCHF.

3. As described in my Supplemental Declaration dated April 20, 2022, MSCHF sold 4,306 pieces of limited-edition *Wavy Baby* art on April 18, 2022. It was my understanding at the time of my April 20 declaration that all orders for the *Wavy Baby* were scheduled to be shipped by the end of the day on April 20. I have recently learned that, although all orders were scheduled to be shipped within 36 hours of selecting winners of the raffle, some orders have not yet shipped, as a result of shipping delays in China.

4. Fulfillment of *Wavy Baby* occurs through a warehouse based in New York City and a factory based in China. All 2,000 units housed in the New York-based warehouse were shipped by April 19, 2022. All 2,306 units housed in the China-based factory were scheduled to ship by April 20, 2022.

5. Shipments from the China-based factory were being conducted by DHL China, which, unbeknownst to MSCHF, imposed a shipment quota last week which led to delays in the shipment of the *Wavy Baby* packages.

6. While the first 394 *Wavy Baby* pieces shipped without incident, unbeknownst to me until yesterday, DHL China, in addition to the shipment quota, chose to require a re-labeling of all remaining units such that the physical address of the China-based factory and the name of the China-based warehouse appear on the label, rather than MSCHF's name. This process was not previously disclosed to MSCHF, and MSCHF only learned about it when it inquired as to the status of shipping. We have been told that the re-labeling has now occurred, and the remaining 1,912 units have exited the factory and, thus, cannot be canceled by MSCHF.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 26, 2022 in Brooklyn, New York.

A stylized, handwritten signature in black ink, featuring a large, sweeping 'G' and 'W' that are connected and fluid.

Gabriel Whaley